

Appl. No. 10/114,309

REMARKS

Reconsideration and allowance of the present application based on the above amendments and the following remarks are respectfully requested. Upon entry of this Response, claims 1, 2, 4-10, 18-21, 22, 28, and 29-30 will be pending.

In Section 8 of the Office Action, dated September 4, 2003, claims 22 and 28 are classified as being withdrawn from further consideration, under 37 CFR 1.142(b), as being drawn to non-elected inventions.

The Applicants have amended claim 22 that introduces further limitations in terms of the method by which a price for an advertising spot is determined based on different factors. The recited factors include indicators measuring degrees of importance with respect to certain predetermined constraint from the perspectives of both an advertiser and a broadcaster. Such limitations constitute a coherent part of the claimed method for ordering an advertising spot for an advertisement to be delivered to target users during the transmission of motion pictures. The amended claim 22 is fully supported by the specification. Therefore, the amended claim 22 is now drawn to system and method classifications of elected subject matter.

The amended claim 28 is now dependent from claim 23, which is directed to a method for an advertiser. The amended claim 28 introduces a further limitation of receiving demographic information that characterizes the target users determined based on predetermined constraints. The amended claim 28 is now drawn to method and system classifications of elected subject matter. Therefore, the amended claims 22 and 28 are now pending.

In Section 12 of the Office Action, claims 5 and 6 have been rejected, under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. The Examiner pointed out that "It is not clear what the 'apportioning a weighted significance' step in claim 5 means." In the disclosed exemplary embodiments for determining a price, the demand and the supply for the target users

Appl. No. 10/114,309

are taken into account in determining a price for an advertising spot. In addition, the relationship between the demand and the supply is also considered, all in the context of the given predetermined constraints.

In a disclosed embodiment, the relationship between demand and supply is computed as a summation of a plurality of products (Fig. 5), wherein each product (of two values) corresponds to an underlying constraint (e.g., age) and the value of the product reflects the demand for a target user with respect to the underlying constraint. The two values involved in a product associated with a predetermined constraint may include an index and a coefficient. An index measures "the relative importance of the individual ... to the broadcaster." (page 20, lines 10-11). A coefficient measures "the demand for the individual from the advertiser's perspective." (page 21, lines 7-9). The product of these two measures characterizes a compound demand considering both the advertiser's perspective and the broadcaster's perspective for a target user with respect to the underlying constraint. Although not explicitly disclosed, it is understood that other alternative embodiments to derive this compound demand are also feasible.

When there is a plurality of predetermined constraints, such compound demand may be computed with respect to each and every of such constraints. An overall demand for a target user across different constraints may also be determined. In one described embodiment, the overall demand for a target user is determined by summing the compound demand for the user with respect to each and every predetermined constraint (example is shown in Fig. 5). By this amendment, claims 5 and 6 have been amended to recite a method to determine a price based on index values and coefficient values. The subject matter claimed in the amended claims 5 and 6 are fully supported by the specification. The amended claims 5 and 6 overcome the indefiniteness rejection. Therefore, claims 5 and 6 are now pending.

In Section 14 of the Office Action, claims 1, 2, 4-10, 18-20, 23, 26, and other related dependent claims have been rejected, under 35 U.S.C. §101, as being directed to non statutory subject matter. Independent claims 1, 7, 8, 9, 10, and 18 and related dependent claims have been

Apph. No. 10/114,309

amended to include "over a data network" in the body of the claims. In addition, the Applicants respectfully point out that business methods are patentable subject matter even when all steps may be performed manually. Therefore, the Applicants respectfully request that the rejection of claims 1, 2, 4-10, 18-20, 23, 26, and other related dependent claims under 35 U.S.C. §101 be withdrawn.

In Section 16 of the Office Action, claims 1, 2, 4-10, 18-21, 23-27, and 29-30 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Dedrick (U.S. Patent No. 5,724,521 A). The rejection is respectfully traversed.

The claimed invention relates to methods of ordering an advertising spot for an advertisement and the system and/or apparatus thereof. According to the claimed invention, an advertisement allocated to an advertising spot is delivered to target users during transmission of a motion picture. That is, an advertisement is transmitted to target users in the context of other content. Certain spots are allocated as advertising spots when such content is transmitted. In addition, the claimed invention relates to methods of determining a price of an advertising spot for an advertisement based on one or more target users selected according to certain predetermined constraints specified by a potential purchaser of the advertising spot. In determining a price based on such selected one or more target users, demand, supply, as well as the relationship between demand and supply for each of the target users are taken into account. Furthermore, predetermined constraints used in ordering an advertising spot may include demographic constraints as well as duration constraints. An advertisement can be delivered, according to the claimed invention, not only to certain target users selected based on demographic constraints but also in a certain manner that is consistent with specified impression constraints. Such impression constraints may be specified in terms of duration of each impression and number of impressions within a period of time.

The claimed invention teaches combining advertising spots for advertisement with non-advertisement content (e.g., motion picture) and delivering such integrated content to a target

Appln. No. 10/114,309

user group according to predetermined constraints, as claimed in amended claim 1. The claimed invention is clearly distinct from Dedrick. In addition, there is no motivation in Dedrick's teaching that leads one skilled in the art to the claimed invention. Therefore, the Applicants respectfully request that the rejection of claim 1 under 35 U.S.C. §103(a) be withdrawn.

Claims 2, 4-6, 24-27 depend from claim 1. Consequently, claims 2, 4-6, 24-27 are patentable at least for the reasons stated above with respect to claim 1 and for the additional features recited therein. Therefore, the Applicants respectfully request that the rejection of claims 2, 4-6, 24-27 under §103(a) be withdrawn.

There are independent grounds related to features recited in the amended claims 5 and 6 that further distinguish the claimed invention from Dedrick. As discussed above regarding claims 5 and 6, in determining a price for delivering an advertisement to one or more target users, the claimed invention takes into account the demand (e.g., from an advertiser's perspective) and the supply (e.g., from a broadcaster's perspective) with respect to each target user in the context of predetermined constraints, as recited in claims 5 and 6. Dedrick, however, does not teach or fairly suggest a pricing mechanism that considers the importance of a target user from both an advertiser's perspective and a distributor's perspective within the context of predetermined constraints. Furthermore, as discussed earlier, the claimed invention teaches a method to deliver an advertisement to target users in a manner satisfying certain time criteria. An advertiser may indicate a desired manner by specifying a certain number of times within a period of time to expose an advertisement to a target user and the duration of each exposure.

Claim 7 is a combination of claim 1 and 4. Consequently, claim 7 is patentable at least for the reasons stated above with respect to claim 1 and for the additional features recited therein. Therefore, the Applicants respectfully request that the rejection of claim 7 under §103(a) be withdrawn.

Apph. No. 10/114,309

Claim 8 parallels claim 7. Consequently, claim 8 is patentable at least for the reasons stated above with respect to claim 7 and claim 1 and for the additional features recited therein. Therefore, the Applicants respectfully request that the rejection of claim 8 under §103(a) be withdrawn.

Claims 9 and 10 parallel claims 1 and 7. Consequently, claims 9 and 10 are patentable at least for the reasons stated above with respect to claim 1 and claim 7 and for the additional features recited therein. Therefore, the Applicants respectfully request that the rejection of claims 9 and 10 under §103(a) be withdrawn.

Claim 18 parallels claim 1. Consequently, claim 18 is patentable at least for the reasons stated above with respect to claim 1 and for the additional features recited therein. Therefore, the Applicants respectfully request that the rejection of claim 18 under §103(a) be withdrawn.

Claims 19-22 depend from claim 18. Consequently, claims 19-22 are patentable at least for the reasons stated above with respect to claim 18 and for the additional features recited therein. Therefore, the Applicants respectfully request that the rejection of claims 19-22 under §103(a) be withdrawn.

Claims 29 and 30 depend from claim 7. Consequently, claims 29 and 30 are patentable at least for the reasons stated above with respect to claim 7 and for the additional features recited therein. Therefore, the Applicants respectfully request that the rejection of claims 29 and 30 under §103(a) be withdrawn.

In view of the foregoing, the claims are now believed to be in form for allowance, and such action is hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, he is kindly requested to contact the undersigned at the telephone number listed below.

Appln. No. 10/114,309

All objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited

Respectfully submitted,

Pillsbury Winthrop LLP

By: 

Steven J Moore  
Reg. No.: 35,959  
Attorney for Applicants  
Pillsbury Winthrop LLP  
Financial Centre  
695 East Main Street  
Stamford, CT 06901-6760  
Tel. No.: (703) 905-2085  
Fax No.: (703) 905-2500

RECEIVED  
CENTRAL FAX CENTER

OCT 20 2003

OFFICIAL

KH:emg  
P.O. Box 10500  
McLean, VA 22102  
(703) 905-2000  
Enclosure: Appendix

Appln. No. 10/114,309

APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE  
IN THE SPECIFICATION:

Paragraph 0026 is changed as follows:

Similarly, the second information (for reference[ ]) can be measured or calculated resulting in data for reference ("reference-feature errors"). The difference between the feature error and reference-feature error magnitudes can ~~then~~ then be determined for pitches of interest.

A1

Received from <203 965 8226> at 10/17/03 5:41:07 PM [Eastern Daylight Time]

\*\* TOTAL PAGE 19 \*\*